HOUSE . . . . . No. 4276

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 10, 2007.

The committee on Mental Health and Substance Abuse, to whom were referred the petition (accompanied by bill, Senate, No. 1133) of Steven A. Tolman and Ruth B. Balser for legislation to improve and expand behavioral health services for children in the Commonwealth, the petition (accompanied by bill, Senate, No. 1140) of Steven A. Tolman for legislation to establish the children's behavioral health research and evaluation insitute, the petition (accompanied by bill, House, No. 1872) of Ruth B. Balser and others relative to chilldren's mental health, the joint petition (accompanied by bill, 1882) of Jennifer L. Flanagan and others for legislation to establish a children's mental health commission, and the petition (accompanied by bill, House, No. 1909) of Ellen Story relative to the mental health commision for children, reports recommending that the accompanying bill (House, No. 4276) ought to pass.

For the committee,

RUTH B. BALSER.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO CHILDREN'S MENTAL HEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 16 of Chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

The secretary of health and human services shall publish a monthly report on the status of children awaiting therapeutically appropriate behavioral health services. The report shall include, but need not be limited to, the following data for the previous month:—

(i) the number awaiting psychiatric hospitalization, the number in hospitals awaiting post-hospitalization residential placement or community-based services, the number discharged and awaiting residential placement, the number temporarily placed and awaiting therapeutically appropriate placement, the number awaiting community-based services, and the length of wait for each category;

(ii) those same numbers for children in the care and custody of the department of social services and the department of mental health;

(iii) the numbers of available psychiatric hospital beds, so-called Chapter 766-approved residential schools, group homes, and foster homes, and how long those beds were available; and

(iv) the number of waivers granted to the department of social services under Section 23 of chapter 18B and granted to the department of mental health under Section 22 of chapter 19, and the length of wait until the placements were made. The reports shall be submitted to the children's behavioral health council and the general court, by filing them with the joint committee on mental health and substance abuse, the house committee on ways and means, the senate committee on ways and means, the clerk of the house, and the clerk of the senate.

SECTION 2. Said Chapter 6A of the General Laws is hereby amended by inserting after Section 16O the following 3 sections:—

Section 16P. (a) There shall be a children's behavioral health council within, but not subject to control of, the executive office of health and human services. The council shall:—

(i) collect quarterly data from state agencies, service providers and insurance providers relative to children's behavioral health services;

(ii) research the best practices for the identification and treatment of children's behavioral health needs;

(iii) evaluate the demand for and the availability, cost and quality of children's behavioral health services provided by the Commonwealth;

(iv) establish goals, using evidence-based measures and periodic benchmarks, designed to promote a comprehensive, coordinated, high-quality, safe, effective, timely, efficient, equitable, family-centered, culturally competent, linguistically appropriate and therapeutically appropriate continuum of behavioral health services for children;

(v) publish annual progress reports, including the estimated costs and benefits of such goals, the status of racial and ethnic disparities, and the capacity of the behavioral health system to meet therapeutically appropriate inpatient, residential and community-based service demands; and

(vi) advise the governor, the general court, the secretary of health and human services and the commissioner of mental health.

(b) The council, consisting of 10 ex-officio members and 11 nongovernmental members appointed by the governor, shall include the secretary of health and human services, the commissioner of mental health, the commissioner of social services, the commissioner of early education and care, the commissioner of youth services, the commissioner of mental retardation, the commissioner of education, the commissioner of public health, the commissioner of insurance, the director of the office of Medicaid, a physician with a board certification in pediatrics and licensed by the board of registration in medicine, a physician with a board certification in child and adolescent psychiatry and licensed by the board of registration in medicine, a person with a doctorate or

master's degree in social work and licensed by the board of registration of social workers, a psychologist with a license in good standing with the board of registration of psychologists, a parent of a child with behavioral health needs, a representative of hospitals with specialized expertise in the care of children, a representative of hospitals who provide inpatient substance abuse or behavioral health services to children, a representative of organizations with expertise in implementing evidence-based children's behavioral health services, an expert in health care policy from a foundation or academic institution, a representative of nongovernmental purchasers of health insurance and a representative of community-based children's behavioral health services providers, or their designees. The terms for nongovernmental members shall be 3 years. Upon the expiration of a term, nongovernmental members shall serve until a successor has been appointed; however, if a vacancy exists prior to the expiration of a term, another nongovernmental member shall be appointed to complete the unexpired term. The council shall be chaired by the secretary of health and human services.

(c) The council shall receive staff assistance from the executive office of health and human services and, subject to appropriation, may employ additional staff or contract with consultants, including independent research organizations, to provide technical assistance.

(d) The council shall submit annual progress reports and any recommendations for legislative changes by February 15th to the governor and the general court, by filing them with the joint committee on mental health and substance abuse, the joint committee on health care finance, the house committee on ways and means, the senate committee on ways and means, the clerk of the house and the clerk of the senate.

(e) All meetings of the council shall conform to Chapter 30A, except that the council, through its bylaws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session.

(f) The members of the council shall not receive a salary or per diem allowance for serving as members of the council, but shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties.

Section 16Q. (a) There shall be an office of compliance coordination, within the executive office of health and human services, to provide administrative oversight, monitoring, and implementation of the remedial plans and court orders related to Rosie D. v. Romney, 410 F.Supp.2d 18 (CA No. 01-30199-MAP) and the Commonwealth's provision of early and periodic screening, diagnostic and treatment services for Medicaid-eligible children with serious emotional disturbances.

(b) There shall be a compliance coordinator in charge of the office, who shall be appointed by and report directly to the secretary of health and human services. The compliance coordinator shall:—

(i) facilitate compliance by MassHealth through the review, design, implementation and evaluation of services provided by agencies within the executive office of health and human services;

(ii) serve as the primary liaison for any court-appointed monitor, special master or agent, and provide the court appointee with access to documentation in the possession of executive office, its agencies or their contractors needed to monitor compliance with the remedial plan or court orders; and

(iii) promote consistency, where appropriate, with other state programs serving persons with similar service needs.

(c) The compliance coordinator shall issue semiannually compliance reports describing to the Commonwealth's compliance with the remedial plan and court orders and identifying any obstacles to compliance. The reports shall be submitted to the general court, by filing with the senate committee on ways and means, the house committee on ways and means, the joint committee on mental health and substance abuse, the joint committee on health care financing and the clerk of the house and the clerk of the senate.

Section 16R. There shall be interagency service review teams to collaborate on complex cases where a child or person under the age of 22 who is disabled or has special needs may qualify for services from multiple state agencies. The case may be referred to the team by a state agency, or the parent or guardian.

The teams shall be geographically based and consist of representatives selected from agencies within the executive office of health and human services, the department of early education and

care, and the department of education. The teams, after hearing from the parents or guardian of the child and reviewing relevant materials, shall determine which services are appropriate for the child, who shall provide those services, including case management services, and how those services shall be funded.

If the team is unable to reach a majority decision and the dispute involves matters solely within the purview of the executive office of health and human services, the team shall notify the secretary of health and human services who shall render a decision within 30 days of the notice. If the parent or guardian of the child disputes the decision of the team or the secretary, the parent or guardian may file an appeal with the division of administrative law appeals, established under Section 4H of Chapter 7, which shall conduct an adjudicatory proceeding.

Notwithstanding Chapter 66A, Chapter 112, Chapter 119 or any other law related to the confidentiality of personal data, the teams, the secretary and the division of administrative law appeals shall have access to and may discuss materials related to the case while the case is under review once the parent or guardian has consented in writing and those having access agree in writing to keep the materials confidential. Once the review is complete, all materials shall be returned to the originating source.

The secretary of health and human services, the board of education and the board on early education and care shall jointly promulgate regulations to effectuate the purposes of this section.

The secretary of health and human services shall publish an annual report by February 15th summarizing the cases reviewed by the teams in the previous year, the length of time spent at each stage, and their final resolution.

Nothing in this section shall limit the rights of parents or children under Chapter 71B the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 et seq.

SECTION 3. Section 4 of Chapter 15D of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “accessible”, in line 47, the following words:— , including training to identify and address infant-toddler and early childhood behavioral health needs.

SECTION 4. Said Section 4 of said Chapter 15D, as so appearing, is hereby further amended by adding the following paragraph:—

The commissioner shall notify the commissioner of mental health at least 20 business days prior to taking any action substantially affecting the financing, operation or regulation of behavioral health services for children, including the approval of contracts, so that the commissioner of mental health can provide commentary under Section 22 of Chapter 19.

SECTION 5. Said Chapter 15D is hereby further amended by adding the following section:—

Section 6. The department shall, subject to appropriation, provide consultation services and workforce development to meet the behavioral health needs of children in early education and care programs. Preference shall be given to those services designed to prevent expulsions and suspensions.

The department shall publish an annual report on behavioral health indicators estimating the annual rates of preschool suspensions and expulsions, the types and prevalence of behavioral health needs of children served by the department, the racial and ethnic background of the children with identified behavioral health needs, the existing capacity to provide behavioral health services, and an analysis of the best intervention and prevention practices, including strategies to improve the delivery of comprehensive services and to improve collaboration and linkages between and among early education and care and human services providers. The report and any recommendations for legislative or regulatory changes shall be submitted by February 15th to the secretary of health and human services, the secretary of administration and finance, and the general court, by filing it the house committee on ways and means, the senate committee on ways and means, the joint committee on education, the joint committee on mental health and substance abuse, the clerk of the house and the clerk of the senate.

SECTION 6. Section 2 of Chapter 18A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

The commissioner shall notify the commissioner of mental health at least 20 business days prior to taking any action substantially affecting the financing, operation or regulation of behavioral health services for children, including the approval of contracts. If the commentary provided by the commissioner of mental health under Section 22 of Chapter 19 conflicts with the commissioner's proposed action, the commissioner shall notify the secretary of health and human services who, under clause (c) of the fourth paragraph of Section 16 of Chapter 6A, shall determine which action to take to promote economy and efficiency and improve service delivery.

SECTION 7. Section 7 of Chapter 18B, as so appearing is hereby amended by adding the following subsection:—

(m) The commissioner shall notify the commissioner of mental health at least 20 business days prior to taking any action substantially affecting the financing, operation or regulation of behavioral health services for children, including the approval of contracts. If the commentary provided by the commissioner of mental health under Section 22 of Chapter 19 conflicts with the commissioner's proposed action, the commissioner shall notify the secretary of health and human services who, under clause (c) of the fourth paragraph of Section 16 of Chapter 6A, shall determine which action to take to promote economy and efficiency and improve service delivery.

SECTION 8. Said Chapter 18B is hereby further amended by adding the following section:—

Section 23. If the department has care and custody of a child receiving inpatient psychiatric services, the department shall contact the child's parents or guardian and a member of the child's treatment team within 3 days of the hospitalization and maintain weekly contact with them until the child is discharged. If the department is notified that the child's discharge plan includes residential placement in an alternative setting, the department shall immediately begin coordination of post-hospitalization care. If continued hospitalization is no longer therapeutically appropriate, the department shall determine within 5 business days where the child shall be placed, unless a waiver has been approved by the

secretary of health and human services. If a waiver is approved, the department shall provide weekly status reports to the hospital until a placement determination is made. If the initial residential placement is not deemed to be therapeutically appropriate, the department shall continue to seek an appropriate residential placement.

If a child's hospitalization continues although it is no longer therapeutically appropriate, the facility shall continue to be compensated at the full negotiated rate for behavioral health services provided to MassHealth patients.

SECTION 9. Chapter 19 of the General Laws is hereby amended by adding the following section:—

Section 22. The commissioner of mental health shall be the primary authority on the design of the Commonwealth's behavioral health services for children.

The commissioner shall review and comment on proposed actions of the department of social services, the department of youth services, the department of public health, the department of mental retardation, the department of education, the department of early education and care and the office of Medicaid that substantially affect the financing, operation or regulation of behavioral health services for children, including the approval of contracts. The commissioner shall provide commentary to the appropriate agency with 15 business days from the date of notice given pursuant to Section 4 of Chapter 15D, Section 2 of Chapter 18A, subsection (m) of Section 7 of Chapter 18B, Section 2 of Chapter 19B, Section 1A of Chapter 69, or Section 2 of Chapter 111.

The commissioner shall publish an annual status report by February 15th on children's behavioral health services in the Commonwealth, including (i) narrative and statistical information about service demand, delivery and cost, and identified service gaps during the prior year, (ii) descriptions of evidence-based research on the effectiveness of the services delivered during the prior year, and (iii) specific recommendations for measurable improvements to children's behavioral health services.

SECTION 10. Section 2 of Chapter 19B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

The commissioner shall notify the commissioner of mental health at least 20 business days prior to taking any action substantially affecting the financing, operation or regulation of behavioral health services for children, including the approval of contracts. If the commentary provided by the commissioner of mental health under Section 22 of Chapter 19 conflicts with the commissioner's proposed action, the commissioner shall notify the secretary of health and human services who, under clause (c) of the fourth paragraph of Section 16 of Chapter 6A, shall determine which action to take to promote economy and efficiency and improve service delivery.

SECTION 11. Said Chapter 19 is hereby further amended by adding the following section:—

Section 22. If the department has care and custody of a child receiving inpatient psychiatric services, the department shall contact the child's parents or guardian and a member of the child's treatment team within 3 days of the hospitalization and maintain weekly contact with them until the child is discharged. If the department is notified that the child's discharge plan includes residential placement in an alternative setting, the department shall immediately begin coordination of post-hospitalization care. If continued hospitalization is no longer therapeutically appropriate, the department shall determine within 5 business days where the child shall be placed, unless a waiver has been approved by the secretary of health and human services. If a waiver is approved, the department shall provide weekly status reports to the hospital until a placement determination is made. If the initial residential placement is not deemed to be therapeutically appropriate, the department shall continue to seek an appropriate residential placement.

If a child's hospitalization continues although it is no longer therapeutically appropriate, the facility shall continue to be compensated at the full negotiated rate for behavioral health services provided to MassHealth patients.

SECTION 12. Section 22 of Chapter 32A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:—

(g)(1) The coverage authorized under this section shall consist of a range of inpatient, intermediate, and outpatient services that permit medically necessary and active and non-custodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and, for persons under 19 years of age, shall include collateral services.

(2) Under this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. To achieve this equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs. Intermediate services shall include, but need not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or as home-based services; provided, however, these services are provided by a licensed mental health professional acting within the scope of license.

SECTION 13. Subsection (i) of said Section 22 of said Chapter 32A, as so appearing, is hereby amended by adding the following paragraph:—

Under this section, "collateral services" shall mean consultation by a licensed mental health professional with parties determined

by the licensed mental health professional to be necessary to make a diagnosis, and develop and implement a treatment plan.

SECTION 14. Section 1A of Chapter 69 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The commissioner shall notify the commissioner of mental health at least 20 business days prior to taking any action substantially affecting the financing, operation or regulation of behavioral health services for children, including the approval of contracts, so that the commissioner of mental health can provide commentary under Section 22 of Chapter 19.

SECTION 15. Section 2 of Chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:—

The commissioner shall notify the commissioner of mental health at least 20 business days prior to taking any action substantially affecting the financing, operation or regulation of behavioral health services for children, including the approval of contracts. If the commentary provided by the commissioner of mental health under Section 22 of Chapter 19 conflicts with the commissioner's proposed action, the commissioner shall notify the secretary of health and human services who, under clause (c) of the fourth paragraph of Section 16 of Chapter 6A, shall determine which action to take to promote economy and efficiency and improve service delivery.

SECTION 16. Section 9A of Chapter 118E of the General Laws, as so appearing, is hereby amended by striking out, in line 69, the figure "18" and inserting in place thereof the following figure:— 20.

SECTION 17. Said Section 9A of said Chapter 118E, as so appearing, is hereby amended by striking out, in line 73, the figure "18" and inserting in place thereof the following figure:— 20.

SECTION 18. Said Section 9A of said Chapter 118E, as so appearing, is hereby amended by striking out, in line 78, the figure "19" and inserting in place thereof the figure:— 21.

SECTION 19. Said Chapter 118E is hereby further amended by inserting after Section 10F the following section:—

Section 10G. The division shall provide coverage for the cost of collateral mental health services performed by a licensed mental health professional for persons under 19 years of age. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage for mental health services pursuant to any law or regulation of the Commonwealth or the United States or under the terms or provisions of any policy, contract, or certificate.

Under this section, "collateral services" shall mean consultation by a licensed mental health professional with parties determined by the licensed mental health professional to be necessary to make a diagnosis, and develop and implement a treatment plan.

Under this section, "licensed mental health professional" shall mean a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed mental health counselor, a licensed educational psychologist or a licensed nurse mental health clinical specialist.

SECTION 20. Section 16C of said Chapter 118E, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 3, the figure "18" and inserting in place thereof the figure:— 20.

SECTION 21. The third paragraph of Section 51D of Chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:—

If a team finds that services required under its plan are not provided to the family, the case shall be referred to an interagency services review team, established by Section 16R of Chapter 6A.

SECTION 22. Section 47B of Chapter 175 of the General Laws, as so appearing is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:—

(g)(1) The coverage authorized under this section shall consist of a range of inpatient, intermediate, and outpatient services that permit medically necessary and active and non-custodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and, for persons under 19 years of age, shall include collateral services.

(2) Under this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. To achieve this equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs. Intermediate services shall include, but need not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or as home-based services; provided, however, these services are provided by a licensed mental health professional acting within the scope of license.

SECTION 23. Subsection (i) of said Section 47B of said Chapter 175, as so appearing, is hereby amended by adding the following paragraph:—

Under this section, "collateral services" shall mean consultation by a licensed mental health professional with parties determined

by the licensed mental health professional to be necessary to make a diagnosis, and develop and implement a treatment plan.

SECTION 24. Section 8A of Chapter 176A of the General Laws, as so appearing, is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:—

(g)(1) The coverage authorized under this section shall consist of a range of inpatient, intermediate, and outpatient services that permit medically necessary and active and non-custodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and, for persons under 19 years of age, shall include collateral services.

(2) Under this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. To achieve this equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs. Intermediate services shall include, but need not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or as home-based services; provided, however, these services are provided by a licensed mental health professional acting within the scope of license.

SECTION 25. Subsection (i) of said Section 8A of said Chapter 176A, as so appearing, is hereby amended by adding the following paragraph:—

Under this section, "collateral services" shall mean consultation by a licensed mental health professional with parties determined by the licensed mental health professional to be necessary to make a diagnosis, and develop and implement a treatment plan.

SECTION 26. Section 4A of said Chapter 176B of the General Laws, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following subsection:—

(g)(1) The coverage authorized under this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and, for persons under 19 years of age, shall include collateral services.

(2) Under this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. To achieve this equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs. Intermediate services shall include, but need not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or as home-based services; provided, however, these services are provided by a licensed mental health professional acting within the scope of license.

SECTION 27. Subsection (i) of said Section 4A of said Chapter 176B, as so appearing, is hereby further amended by adding the following paragraph:—

Under this section, "collateral services" shall mean consultation by a licensed mental health professional with parties determined by the licensed mental health professional to be necessary to make a diagnosis, and develop and implement a treatment plan.

SECTION 28. Section 1 of Chapter 176G of the General Laws, as so appearing, is hereby amended by adding after the definition of "Carrier" the following definition:—

"Carve-out", a company, organized under the laws of the Commonwealth or organized under the laws of another state and qualified to do business in the Commonwealth, that has entered into a contractual arrangement with a health maintenance organization to provide or arrange for the provision of behavioral health services to voluntarily enrolled members of the health maintenance organization.

SECTION 29. Said Section 4M of said Chapter 176G, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following:—

(g)(1) The coverage authorized under this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and, for persons under 19 years of age, shall include collateral services.

(2) Under this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. To achieve this equivalency, the continuum of intermediate services shall be of sufficient extent and variety to

address the complex needs of children with behavioral health needs. Intermediate services shall include, but need not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or as home-based services; provided, however, these services are provided by a licensed mental health professional acting within the scope of license.

SECTION 30. Said Section 4M of said Chapter 176G of the General Laws, as so appearing, is hereby further amended by adding the following paragraph:—

Under this section, "collateral services" shall mean consultation by a licensed mental health professional with parties determined by the licensed mental health professional to be necessary to make a diagnosis, and develop and implement a treatment plan.

SECTION 31. Section 10 of Chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after the word, "organization", every time it appears, the following words:— and carve-out.

SECTION 32. Said Chapter 176G is hereby further amended by adding the following 3 sections:—

Section 30. Any health maintenance organization for whom a carve-out is administering behavioral health services shall be responsible for the carve-out's failure to comply with the requirements of this chapter in the same manner as if the health maintenance organization failed to comply.

Section 31. Any health maintenance organization for whom a carve-out is administering behavioral health services shall state on its enrollment card the name of the carve-out and its telephone number to ensure coverage for such services.

Section 32. (a) A carve-out shall provide to at least 1 adult insured in each household upon enrollment, and to a prospective insured upon request, the following information:—

(1) a statement that information may be available from the board of registration in medicine that profiles physicians licensed to practice in the Commonwealth;

(2) a summary of the process by which clinical guidelines and utilization review criteria are developed;

(3) a notice to the insured regarding emergency medical conditions that states:—

(i) that the insured may obtain health care services for an emergency medical condition, including the option of calling the local pre-hospital emergency medical service system by dialing the emergency telephone access number 911 or its local equivalent, if the insured has an emergency medical condition that would be judged by a prudent layperson to require pre-hospital emergency services;

(ii) that no insured shall be discouraged from using the local pre-hospital emergency medical service system, the 911 telephone number, or the local equivalent;

(iii) that no insured will be denied coverage for medical and transportation expenses incurred as a result of such emergency medical condition; and

(iv) if the carve-out requires an insured to contact either the carve out or its designee or the primary care physician of the insured within 48 hours of receiving emergency services, that notification already given to the carve out, designee or primary care physician by the attending emergency physician shall satisfy that requirement.

(4) a statement that the office of patient protection, established by Section 217 of Chapter 111, is available to assist consumers, a description of the grievance and review processes available to consumers under Chapter 176O, and relevant contact information to access the office and these processes.

(b) This information may be contained in the evidence of coverage and need not be provided in a separate document. Every disclosure described in this section shall contain the effective date, date of issue and, if applicable, expiration date.

(c) Carve-outs shall submit material changes to the disclosures required by this section to the managed care bureau, established by Section 2 of Chapter 176O, at least 30 days before their effective dates and to at least 1 adult insured in every household residing in the Commonwealth at least biennially.

(d) A carve-out that provides specified services through a workers' compensation preferred provider arrangement that meets the requirements of 211 CMR 112.00 and 452 CMR 6.00 shall be considered to comply with this section.

SECTION 33. Subsection (a) of Section 7 of Chapter 176O of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following clause:—

(7) a statement that an insured has the right to request referral assistance from a carrier if the insured or the insured's primary care physician has difficulty identifying services within the carrier's network; that the carrier, upon request by the insured, shall identify and confirm the availability of these services directly; and that the carrier, if necessary, shall obtain out-of-network services if they are unavailable within the network.

SECTION 34. Section 77 of Chapter 177 of the acts of 2001 is hereby repealed.

SECTION 35. Notwithstanding subsection (b) of section 16G of Chapter 6A of the General Laws, the initial terms of the 11 nongovernmental members on the children's behavioral health council, established by said Section 16G of said Chapter 6A, shall be designated by the governor as follows:— 4 members for a term of 1 year, 4 members for a term of 2 years, and 3 members for a term of 3 years.

SECTION 36. (a) The office of Medicaid shall convene a working group on the early identification of children's developmental, mental health and substance abuse problems in pediatric primary care settings. The working group shall include representatives from the pediatric, mental health, and substance abuse communities, as well as patient and child advocacy organizations. It shall review the office of Medicaid's current regulations on the

early and periodic screening, diagnosis and treatment program, and make recommendations about the periodicity of screenings, the screening tools used, the training and education of those conducting the screenings, and treatment protocols. The recommendations shall be submitted by July 31, 2009 to the general court, by filing with the joint committee on mental health and substance abuse, the house committee on ways and means, the senate committee on ways and means, the clerk of the house, and the clerk of the senate.

(b) Notwithstanding any general or special law to the contrary, by October 31, 2009, the office of Medicaid and the division of health care finance and policy shall develop 1 or more reimbursement rates and billing codes for use by primary care providers conducting developmental, mental health and substance abuse screenings. The rates shall be reasonably calculated to cover the cost of screening tools and the time to screen, score and interpret the results. Screenings shall be reimbursed separately from the standard office visit case rate for children enrolled in MassHealth. The office of Medicaid shall require any managed care organization providing these screenings to children enrolled in MassHealth to reimburse separately for these screening services.

SECTION 37. (a) There shall be a task force on behavioral health and public schools to build a framework to promote linkages, collaborative services and supportive school environments for children, to develop and pilot an assessment tool based on the framework to measure schools' capacity to address children's behavioral health needs, to make recommendations for using the tool to carry out a statewide assessment of schools' capacity, and to make recommendations for improving the capacity of schools to implement the framework.

(b) The task force, consisting of 8 ex-officio members and 16 members appointed by the commissioner of education, shall include the commissioner of education, who shall serve as chairperson, the commissioner of early education and care, the commissioner of mental health, the commissioner of mental retardation, the commissioner of public health, the commissioner of social services, the commissioner of transitional assistance, and the commissioner of youth services, or their designees; 2 parents

of children with behavioral health needs; 1 adult who had behavioral health needs as a child; 4 community-based behavioral health providers, 1 who works with schools, 1 who works with parents of children with behavioral health needs, 1 who has expertise in the behavioral health effects of trauma, and 1 who is implementing the remedial plan related to Rosie D. v Romney, 410 F.Supp.2d 18 (CA No. 01-30199-MAP); 1 advocate who represents parents or children in the areas of behavioral health, trauma, and education, 2 school principals; 2 teachers; 2 school psychologists; and 2 school-based student support persons selected from schools participating in the Commonwealth's Safe and Supportive Learning Environments grant program established by subsection (b) of Section 1N of Chapter 69 of the General Laws, the Schools Initiative of the executive office of health and human services, the federal grant program to integrate schools and mental health systems established by 20 U.S.C. 7269, or similar programs.

(c) The task force shall:—

(i) build a framework that promotes collaboration and linkages between schools and behavioral health services and promotes supportive school environments where children with behavioral health needs can form relationships with adults and peers, regulate their emotions and behaviors, and achieve academic and nonacademic school success;

(ii) develop a tool based on the framework to assess the capacity of schools to collaborate with behavioral health services and provide supportive school environments that can improve, outcome measures such as rates of suspensions, expulsions, and other punitive responses, hospitalizations, absenteeism, tardiness, truancy and drop-out rates, time spent on learning and other measures of school success;

(iii) pilot the assessment tool in at least 10 schools;

(iv) make recommendations for using the tool to carry out a statewide assessment; and

(v) make recommendations for improving the capacity of schools to implement the framework.

(d) The framework shall address:—

(i) Leadership by school administrators to create structures within schools that promotes collaboration and linkages between

schools and behavioral health providers within confidentiality laws.

(ii) Professional development for school personnel and behavioral health service providers that clarifies roles and promotes collaboration within confidentiality laws; increases cultural competency; increases school personnel's knowledge of behavioral health symptoms, the impact of these symptoms on behavior and learning, and the availability of community resources; enhances school personnel's skills to help children form meaningful relationships, regulate their emotions, behave appropriately, and succeed academically, and to work with parents who may have behavioral health needs; increases providers' skills to identify school problems and to provide consultation, classroom observation, and support to school personnel, children, and their families; and increases school personnel's and providers' knowledge of the impact of trauma on learning, relationships, physical well-being, and behavior, and of school-wide and individual approaches that help traumatized children succeed in school.

(iii) Access to therapeutically, linguistically, and culturally appropriate behavioral health services, including prevention, early intervention, crisis intervention, and treatment, especially for children transitioning to school from other placements or hospitalization, homelessness , and children requiring behavioral health services pursuant to special education individual education plans;

(iv) Effective academic and non-academic activities that build upon students' strengths, promote success in school, maximize time spent in the classroom and minimize suspensions, expulsions, and other removals for students with behavioral health challenges.

(v) Policies and protocols for referrals to behavioral health services that minimize time out of class, safe and supportive transitions to school, consultation and support for school staff, confidential communication, appropriate reporting of child abuse and neglect under Section 51A of Chapter 119, and discipline that focuses on reducing suspensions and expulsions and that balances accountability with an understanding of the child's behavioral health needs and trauma.

(e) The commissioner of education shall convene the task force on or before December 31, 2008.

(f) The task force shall submit an interim report to the governor and to the general court, by filing the report with the joint committee on mental health and substance abuse, the clerk of the house and the clerk of the senate on or before December 31, 2009. The interim report shall:—

(i) describe the framework,

(ii) explain the assessment tool and the results of its pilot use, and

(iii) propose how to use the tool to assess statewide capacity of schools to promote collaborative services and supportive school environments.

(g) The task force shall submit a final report to the governor and to the general court, by filing the report with the joint committee on mental health and substance abuse, the clerk of the house and the clerk of the senate on or before June 30, 2011. The final report shall:—

(i) detail the findings of the statewide assessment and

(ii) recommend a plan for statewide utilization of the framework.

SECTION 38. Section 41 is hereby repealed.

SECTION 39. Section 42 is hereby repealed.

SECTION 40. Section 43 is effective as of November 1, 2009.

SECTION 41. Section 44 is effective as of July 1, 2011.